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### **REMARKS**

Reconsideration is requested in view of the above amendments and the following remarks. Claims 1 and 25 have been revised to include the feature of claims 2 and 4. Claims 3, 5-6, 9-10 and 12 have been revised to depend from claim 1. Claims 21 and 26 have been editorially revised. Claims 2, 4 and 27 have been canceled without prejudice. Claims 1, 3 and 5-26 remain pending in the application.

#### **Claim Rejections – 35 USC § 101**

Claims 1-27 are rejected under 35 USC § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 21, 25 and 26 have been editorially revised to address the issues. Claim 27 has been canceled without prejudice, rendering the rejection moot as to this claim. Applicants are not conceding the correctness of the rejection. Withdrawal of the rejection is respectfully requested.

#### **Claim Rejections – 35 USC § 103**

Claims 1-3, 9-11 and 17-20 are rejected under 35 USC § 102(b) as being unpatentable over Takinami et al. (WO 02/07599) in view of Wagner (US 4,600,403) and Seseikura (US 5,891,053). Applicants respectfully traverse this rejection. Claim 2 has been canceled without prejudice. Claim 1 has been revised to include the feature of claims 2 and 4. Claims 3 and 9-10 have been revised to depend from claim 1. Therefore, claim 1 and its dependent claims 3, 9-11 and 17-20 are not subject to this rejection.

Claims 4-6 are rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner, Seseikura and further in view of Golden (US 5,201,560). Applicants respectfully traverse this rejection. Claim 4 has been canceled without prejudice. Applicants are not conceding the correctness of the rejection as to claim 4.

Claim 1 has been revised to include the feature of claims 2 and 4. Claim 1 is directed to a lancing apparatus used for sampling a body fluid out of a skin, which

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requires a pressure controller executing a control so as to maintain a pressure inside a cylindrical portion within a specific range, the specific range being defined by granting a specific tolerance to a reference pressure that is set at a lower value than a pressure inside the cylindrical portion at a time that a height detector has detected that the skin has been raised to a predetermined height.

In a conventional lancing apparatus used for sampling a body fluid out of a skin, when a pump is used for generating a negative pressure inside the lancing apparatus to bring an end of the lancing apparatus into contact with a skin, the negative pressure may not appropriately act on the skin. For example, if a gap is left between the end of the lancing apparatus and the skin, the skin might not swell sufficiently. Thus, when an insertion element is moved forward to insert into the skin, the insertion element may not reach the skin, or may not be inserted deep enough to provoke sufficient bleeding (see, e.g., page 2, line 16 to page 3, line 5 of the specification and Fig. 18B, among other places). On the other hand, when the pressure in the lancing apparatus is too high, the skin may intrude too much into the end of the lancing apparatus, causing the insertion element to be inserted too deep into the skin. The present pressure controller helps maintain the pressure inside the cylindrical portion within a specific range, and thus helps the user properly insert the insertion element into the skin.

Golden is directed to a vacuum cup control apparatus for applying and releasing a vacuum in a vacuum cup when the vacuum cup is used as workpiece gripping elements to engage and transport a workpiece in a manufacturing operation, to load and unload sheet metal parts into and from a die, or to carry a part, such as an automobile windshield, to the vehicle to which it is to be installed (see Golden, Abstract and col. 1, lines 17-22). Golden is not in the same field of endeavor as the present application. Nor does Golden provide any indication that the workpiece gripped by the vacuum cup would have any relevance to the problem that the current invention is directed, e.g., a controller controlling a pressure on a skin. See *In re Oetiker*, 977 F.3d 1443, 1446, 24U.S.P.Q.2d 1443, 1445 (Fed. Cir. 1992). Accordingly, Applicants respectfully contend the Golden reference cannot be used in support of an obviousness rejection of the present claims.

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Moreover, even assuming arguendo that golden would suggest a pressure controller in the invention of claim 1, it would not be obvious for one skilled in the art to glean all the features of claim 1 from the combination. Golden fails to teach or suggest a pressure controller executing a control to maintain a pressure within a specific range, which is defined by granting a specific tolerance to a reference pressure, as required by claim 1. In fact, Golden merely discusses a first reference voltage to be compared with an output voltage signal to determine when to reapply vacuum (Golden, col. 11, lines 9-30). More specifically, a control valve 76 reapplies vacuum to the vacuum cup 12 when the output voltage signal decreases below the first reference voltage. Applicants therefore respectfully contend that Golden fails to render claim 1 obvious since Golden fails to provide any motivation to a pressure controller executing a control in a manner the rejection requires to meet claim 1.

For at least these reasons, claim 1 is patentable over Takinami et al. in view of Wagner, Sesekura and Golden. Claims 3, 9-11 and 17-20 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claims 5 and 6 have been revised to depend from claim 1 and are patentable over Takinami et al. in view of Wagner, Sesekura and Golden for at least the same reasons discussed above regarding claims 1, 3, 9-11 and 17-20. Golden does not remedy the deficiencies of Takinami et al., Wagner and Sesekura. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claims 7 and 8 are rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner, Sesekura, Golden and Hodges et al. (US 6,612,111). Applicants respectfully traverse this rejection. Claims 7 and 8 depend ultimately from claim 1 and are patentable over Takinami et al. in view of Wagner, Sesekura, Golden and Hodges et al. for at least the same reasons discussed above regarding claims 1, 3, 9-11 and 17-20. Hodges et al. do not remedy the deficiencies of Takinami et al., Wagner,

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Seskura and Golden. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claims 12-16 are rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner, Seskura and further in view of Feingold (US 6,083,236). Applicants respectfully traverse this rejection. Claim 12 has been revised to depend from claim 1. Claims 12-16 depend ultimately from claim 1 and are patentable over Takinami et al., Wagner, Seskura and Feingold for at least the same reasons discussed above regarding claims 1-3, 9-11 and 17-20. Feingold does remedy the deficiencies of Takinami et al., Wagner and Seskura. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claim 25 is rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner. Applicants respectfully traverse this rejection. Claim 25 has been revised to include the feature of claims 2 and 4 and is patentable for reasons similar to those discussed above regarding claim 1. Claim 25 requires a pressure controller that executes a control so as to maintain a pressure inside a cylindrical portion within a specific range, the specific range being defined by granting a specific tolerance to a reference pressure that is set at a lower value than a pressure inside the cylindrical portion at a time that a height detector has detected that a skin has been raised to a predetermined height. The present record fails to teach or suggest such arrangement. For at least this reason, claim 25 is patentable over the references on the record.

Claim 26 is rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner and Golden. Applicants respectfully traverse this rejection. Claim 26 is patentable over the cited references for reasons similar to those discussed above regarding claim 1. Claim 26 requires a controller for executing a control so as to maintain a pressure inside a cylindrical portion within a specific range, wherein the specific range is defined by granting a specific tolerance to a reference pressure which is set at a lower value than a pressure inside a cylindrical portion at a time that a height

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detector has detected that a skin has been raised to a predetermined height. The present record fails to teach or suggest such arrangement. For at least this reason, claim 26 is patentable over the references on the record.

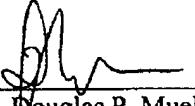
Claim 27 is rejected under 35 USC 103(a) as being unpatentable over Takinami et al. in view of Wagner and Feingold. Claim 27 has been canceled without prejudice, rendering the rejection moot. Applicants are not conceding the correctness of the rejection.

In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.

Respectfully submitted,

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